

HOUSE BILL NO. 719

INTRODUCED BY G. OBLANDER, N. NICOL, J. ETCHART

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKERS' COMPENSATION LAWS RELATING TO THE DESIGNATION OF TREATING PHYSICIANS; PROHIBITING CERTAIN ENTITIES FROM REQUIRING OR THREATENING A WORKER TO USE A PARTICULAR TREATING PHYSICIAN; AND AMENDING SECTION 39-71-1101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of health care provider by worker -- insurer designation or approval of treating physician or referral to managed care or preferred provider organization -- payment terms -- definition. (1) Prior to the insurer's designation or approval of a treating physician as provided in subsection (2) or a referral to a managed care organization or preferred provider organization as provided in subsection (8), a worker may choose a person who is listed in 39-71-116(42) for initial treatment. Subject to subsection (2), if the person listed under 39-71-116(42) chosen by the worker agrees to comply with the requirements of subsection (2), that person is the treating physician. An insurer, managed care organization, or health care provider organization may not:

- (a) require that a worker use a particular treating physician; or
- (b) engage in any act or practice of intimidation, coercion, or threat for or against a worker to use a particular treating physician.

(2) Any time after acceptance of liability by an insurer, the insurer may designate or approve a treating physician who agrees to assume the responsibilities of the treating physician. The designated or approved treating physician:

- (a) is responsible for coordinating the worker's receipt of medical services as provided in 39-71-704;
- (b) shall provide timely determinations required under this chapter, including but not limited to

1 maximum medical healing, physical restrictions, return to work, and approval of job analyses, and shall provide
2 documentation;

3 (c) shall provide or arrange for treatment within the utilization and treatment guidelines or obtain
4 prior approval for other treatment; and

5 (d) shall conduct or arrange for timely impairment ratings.

6 (3) The treating physician may refer the worker to other health care providers for medical services,
7 as provided in 39-71-704, for the treatment of a worker's compensable injury or occupational disease. A health
8 care provider to whom the worker is referred by the designated treating physician is not responsible for
9 coordinating care or providing determinations as required of the treating physician.

10 (4) The treating physician designated or approved by the insurer must be reimbursed at 110% of
11 the department's fee schedule.

12 (5) A health care provider to whom the worker is referred by the treating physician must be
13 reimbursed at 90% of the department's fee schedule.

14 (6) A health care provider providing health care on a compensable claim prior to the designation or
15 approval of the treating physician by the insurer must be reimbursed at 100% of the department's fee schedule.

16 (7) Regardless of the date of injury, the medical fee schedule rates in effect as adopted by the
17 department in 39-71-704 and the percentages referenced in subsections (4) through (6) of this section apply to
18 the medical service on the date on which the medical service was provided.

19 (8) The insurer may direct the worker to a managed care organization or a preferred provider
20 organization for designation of the treating physician.

21 (9) After the insurer directs a worker to a managed care organization or preferred provider
22 organization, a health care provider who otherwise qualifies as a treating physician but who is not a member of
23 a managed care organization may not provide treatment unless authorized by the insurer.

24 (10) After the date that a worker subject to the provisions of subsection (9) receives individual
25 written notice of a referral, the worker must, unless otherwise authorized by the insurer, receive medical
26 services from the organization designated by the insurer, in accordance with 39-71-1102 and 39-71-1104. The
27 designated treating physician in the organization then becomes the worker's treating physician. The insurer is
28 not liable for medical services obtained otherwise, except that a worker may receive immediate emergency

1 medical treatment for a compensable injury from a health care provider who is not a member of a managed
2 care organization or a preferred provider organization.

3 (11) Posting of managed care requirements in the workplace on bulletin boards, in personnel
4 policies, in company manuals, or by other general or broadcast means does not constitute individual written
5 notice. To constitute individual written notice under this section, information regarding referral to a managed
6 care organization must be provided to the worker in written form by mail or in person after the date of injury or
7 occupational disease."

8 - END -